(43)

HIGH COURT OF CHHATTISGARH AT BILASPUR

DIVISION BENCH

CORAM: HON'BLE SHRI JAGDISH BHALLA, Ag. CJ. &
HON'BLE SHRI SATISH K. AGNIHOTRI, J.

Writ Appeal No. 269 of 2007

APPELLANT : (Petitioner) Kamund Lal Dahariya S/o. Shri Bhagirathi Dahariya, aged about 38 years, Assistant Teacher, presently posted as Block Development Coordinator, Rajiv Gandhi Shiksha Mission, Block Podi Uprodha, District – District – Korba, Chhattisgarh.

Versus

Respondents

1. State of Chhattisgarh Through : The Secretary, Department of School Education, D.K.S. Bhawan, Mantralaya, Raipur, Chhattisgarh.
2. Director Mission, Rajiv Gandhi Shiksha Mission, D.K.S. Bhawan, Mantralaya, Raipur, Chhattisgarh.
3. Collector, District Korba, Chhattisgarh.
4. Director, District Project, Rajiv Gandhi Shiksha Mission, District Korba, Chhattisgarh.

Writ Appeal under Section 2(1) of the High Court of Chhattisgarh Appeal to Division Bench Act, 2006 r/w Rule 157(10) of C.G. High Court Rules 2005.

Present : Shri Anup Majumdar, counsel for the appellant.
Shri A.S. Kachhawaha, Government Advocate for the State.

ORAL JUDGMENT
(Passed on 25th October, 2007)

The following oral judgment of the Court was passed by **Hon'ble Jagdish Bhalla, Ag. C.J.**

The Registry has reported that there is a delay of 33 days in filing the writ appeal. In stead of issuing notice on the application for condonation of delay, in view of the fact that unnecessary pendency is

increasing in this Court, we venture to hear learned counsel for the appellant on merits as well.

This appeal arises out of an order dated 24.07.2007, passed by the learned Single Judge, wherein order of repatriation of the appellant-petitioner was considered by the learned Single Judge and writ petition was dismissed. Hence, this writ appeal.

It has been contended on behalf of the appellant-petitioner that the impugned order of repatriation is a stigmatic in nature. When enquired whether this question was raised before the learned Single Judge or not, it was replied that learned counsel who is appearing for the appellant in this appeal was not the counsel before the writ Court. In spite of the same, we have considered the question whether the impugned order is stigmatic in nature or not. From the perusal of the repatriation order, it is clear that it is an order simplicitor. We are of the considered opinion that repatriation amounts to transfer. The impugned order could only be interfered with if either there is any violation of law or strong case of *mala fide*, but in this case nothing of this sort is there. Accordingly, even on merit we do not find that the appeal can succeed.

In the light of the above, the application I.A. No.1 and the writ appeal stand dismissed.

Sd/-
Acting Chief Justice

Sd/-
Satish K. Agnihotri
Judge

subbu